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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,440	01/02/2002	Anthony J.M. Garwood	CRSL118412	4972
26389	7590	04/20/2004	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			PETERSON, KENNETH E	
		ART UNIT	PAPER NUMBER	3724

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/037,440	GARWOOD, ANTHONY J.M.	
	Examiner	Art Unit	
	Kenneth E Peterson	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 18 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 18 and 29-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

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1. Applicant's election of claim 18 without traverse is noted. The non-elected claims have been cancelled.

2. The abstract of the disclosure is objected to because it does not refer to the claimed invention, it only refers to the subject matter of the cancelled claims. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because serial numbers of the related PCT cases have not been entered on at least pages 2 and 7.

Appropriate correction is required.

The lengthy specification has not been checked to the extent necessary to determine the presence of any minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

4. Applicant's 6 IDSs have been received. On the first IDS, received 12 April 02, the Examiner will not have access to the foreign references and non-patent literature for some time yet (an internal office delay), so these have not been initialed. When Examiner does get access to these references, the IDS will be more fully initialed.

5. Claims 30 and 31 are objected to because of the following informalities:

In claim 30, the term "the lidding web between the first and second tray" lacks proper antecedent basis.

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Appropriate correction is required.

6. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 31 is the phrase "tray webs can be bunched against one another". The use of the phrase "can be" is not a positive step, and therefor it is not clear what weight should be given to it. Furthermore, it is not clear what conveyors are being operated at what speeds, nor when this happens.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 18 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Gorlich '736, who shows a method with all of the recited limitations including a recess (26). As seen in figure 3, a 2nd tray can be in "proximity" to a 1st tray.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 18 and 29-30 are rejected under 35 U.S.C. 103(a).

It is well known to trim the lidding web of successive trays without leaving any scrap lidding material. Examples of such a method can be seen in McLeod '885 and Garwood '512. Additional references can be provided if necessary.

None of the prior art trays shows recesses that permit clearance of the trimming tool. However, it is well known for trays to have peripheral recesses, for reasons such as structural integrity and finger-access seal removal. An example of this is shown by Curtis '930 (best seen in figure 4). Additional examples can be provided if necessary. It would have been obvious to one of ordinary skill in the art to have modified the known method by employing it on trays that had peripheral recesses, as exemplified by Curtis, in order to efficiently provide a lidding web to trays having peripheral recesses.

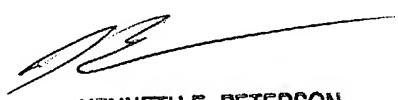
In regards to claim 31, as not understood, the trays can be bunched together.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp

April 16, 2004



KENNETH E. PETERSON
PRIMARY EXAMINER